

SEP 28 2006

357153/0004  
SBP/JEL**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Hans-Peter WILD, et al.

Art Unit: 3721

Application No.: 09/690,409

Examiner: Tranh K. Truong

Filed: October 17, 2000

For: APPARATUS FOR APPLYING DRINKING STRAWS

Date: September 28, 2006

**STATEMENT ESTABLISHING UNINTENTIONAL DELAY**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The application, together with several other applications assigned to the same assignee, was transferred to our firm for our representation on March 1, 2006. However, at that time, the application was already under appeal, and the appeal brief had been submitted originally on August 25, 2003 and resubmitted on November 3, 2003. Also as of that date, the reply brief had been previously filed on February 13, 2004. All the briefs were prepared and submitted by previous counsel.

On July 14, 2006, the Board of Patent Appeals and Interferences rendered a Decision on Appeal confirming all the Examiner's rejections and arguments. The Decision on Appeal was sent to the previous counsel, who on August 1, 2006, forwarded the Decision on Appeal to the undersigned counsel. The undersigned counsel promptly forwarded a notice to the client in Europe of the decision on August 3, 2006. Regrettably, however, because the undersigned firm was not involved in the prosecution of the Appeal, and because the undersigned firm was not

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Application Serial No. 09/690,409  
Statement Establishing Unintentional Delay

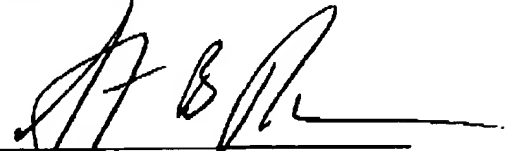
involved in the appeal process, no deadline information was entered into the firm's management and docketing system. According to the firm's management and docketing system, once a document is received from the U.S. Patent and Trademark Office, the critical dates, such as deadlines, are entered into the system, with reminders being sent to the attorneys prior to the deadlines. Unfortunately, the Decision on Appeal was not received from the U.S. Patent and Trademark Office but from previous counsel, therefore circumventing the firm's procedure of passing through the management and docketing system. Accordingly, the deadline to file a Notice of Appeal or a Request for Continued Examination was inadvertently not entered into the firm's docketing system, and as a consequence, the time has since elapsed. Our client has instructed us to continue to prosecute new claims in lieu of filing a Notice of Appeal, and for this reason, Applicants request that the accompanying Request for Continued Examination be granted.

Applicants respectfully submit that, for the reasons set forth above, the entire delay in filing the required Request for Continued Examination from the due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Accordingly, Applicants hereby petition for revival of this application.

Application Serial No. 09/690,409  
Statement Establishing Unintentional Delay

No additional fee, other than the Petition Fee submitted herewith, is deemed necessary in connection with the filing of this Statement. However, if any fee is due the amount of such fee may be charged to Deposit Account No. 19-4709.

Respectfully submitted,



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PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	<b>Docket Number (Optional)</b> <b>357153/0004</b>
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First named Inventor: **Hans-Peter WILD**Application No.: **09/690,409**Art Unit: **3721**Filed: **October 17, 2000**Examiner: **Tranh K. Truong**Title: **Apparatus for Applying Drinking Straws**

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

# APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,500 (37 CFR 1.17(m))

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment with Request for Continued Examination (identify type of reply):

☐ has been filed previously on \_\_\_\_\_.

☒ Is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

☐ has been paid previously on \_\_\_\_\_.

☐ Is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

\_\_\_\_\_  
Signature Date  
September 28, 2006

\_\_\_\_\_  
Steven B. Pokotilow  
Typed or printed name Registration Number, if applicable  
26,405

\_\_\_\_\_  
STROOCK & STROOCK & LAVAN LLP  
Address Telephone Number

\_\_\_\_\_  
180 Maiden Lane, New York, NY 10038  
Address

Enclosures: ☐ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: \_\_\_\_\_**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

9/28/2006

Date

\_\_\_\_\_  
Signature  
Jeong Eun Lee  
Typed or printed name of person signing certificate